

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DALMACIO TOLENTINO,	:	
	:	
Petitioner,	:	Civ. No. 13-4168 (WJM)
	:	
v.	:	NOTICE AND ORDER
	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
	:	

TO PETITIONER:

You have filed a Motion under 28 U.S.C. § 2255 to vacate, set aside or correct a sentence by a person in federal custody. That Motion has been assigned the above docket number in this Court.

Pursuant to the decision in *United States v. Miller*, 197 F.3d 644 (3d Cir. 1999), you are advised that under federal law, a person seeking relief in federal court from a sentence resulting from a conviction in federal court must include in a single motion under 28 U.S.C. § 2255, all potential claims for which he desires to seek review and relief. A second or successive motion under § 2255:

must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain -

- (1) newly discovered evidence that, if proven and viewed in the light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty; or
- (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

28 U.S.C. § 2255(h).

Accordingly, YOU ARE HEREBY NOTIFIED THAT:

1. You may have your Motion ruled upon as filed; or
2. You may withdraw your Motion and file an all-inclusive § 2255 motion, on the form supplied by the Clerk, subject to the one (1) year limitations period described in 28 U.S.C. § 2255.
3. You have thirty (30) days from the date of this Order within which to advise the Court as to decision regarding your pending § 2255 Motion. If you fail to notify the Court within thirty days, your Motion will be ruled upon as filed.

s/William J. Martini

WILLIAM J. MARTINI
United States District Judge

Dated: 7/22/13